

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PETRO INDUSTRIAL SOLUTIONS, LLC,

Plaintiff,

VS.

**ISLAND PROJECT AND OPERATING
SERVICES, LLC, VITOL US HOLDING II,
CO., VITOL VIRGIN ISLANDS CORP.,
ANDREW CANNING and OPTIS EUROPE,
LTD.,**

Defendants.

CASE NO. 1:21-cv-00312

DECLARATION OF DAVID SMITH

I, David Smith, under the provisions of 28 U.S.C. §1746, hereby declare the following:

1. On Wednesday, June 21, 2023, I was deposed in this matter as the 30(b)(6) designee of Island Project and Operating Services, LLC, also known as IPOS.
2. As explained in my deposition, I served as general manager for IPOS during 2019, 2020 and 2021. During that period, IPOS operated and maintained the propane facilities in St. Croix and in St. Thomas pursuant to an agreement with Vitol Virgin Islands Corp. (VVIC).
3. Among its responsibilities, IPOS was required to coordinate the Services of any subcontractors performing Services on the Plants.
4. On September 1, 2019, IPOS entered into a Maintenance Contract with Petro Industrial Solutions LLC (“Petro”), pursuant to which Petro would provide scheduled and preventative maintenance based upon specific needs of the equipment as determined by IPOS and also perform unscheduled remedial maintenance as and when needed.

5. In addition to the maintenance services, Petro from time to time performed work on various projects at the facilities. In 2021, one such project was the construction of a 3” vent line at the facility in St. Croix.
6. During the period that Petro was working on the 3” vent line, VVIC also had a contract with OPTIS Europe Ltd., to manage, in conjunction with IPOS, the operation of the plants and to manage and oversee capital projects that may arise. Andrew Canning was the individual who performed these services for the OPTIS Europe contract with VVIC.
7. Mr. Canning often raised concerns to IPOS about work performed by Petro. For example, in December 2020 and January 2021, Mr. Canning raised questions about timesheets submitted by Petro for project work that was being overseen by Mr. Canning as part of the OPTIS Europe contract with VVIC.
8. On June 17, 2020, Andrew Canning sent an email to me concerning a quotation for work on a 1” vent line. Specifically, Mr. Canning stated that he had learned from David Nagle that Dave Tilden at Trager Brothers, a supplier that IPOS had utilized from time to time, “sent Adrian Melendez all the material quote and fabrication quote information for the 1” line work.” Mr. Canning stated “I have no idea why he did this, as it is at a minimum unprofessional but probably more exactly corrupt.” Mr. Canning’s email concluded by noting that he would consider the actions of David Tilden for Trager Brothers and Adrian Melendez of Petro Industrial “are worthy of removal of both companies from the IPOS approved vendors list.”
9. On January 23, 2021, Andrew Canning copied me on an email to David Nagle about the RIO Shade Project in which he stated “it certainly helps if the contractor comes with the necessary tools and equipment to undertake the work, which is something

- Petro has consistently failed to do especially when most of their activities are time and materials – where is the incentive to get the work done and this certainly appears to be another example here?” Andrew Canning also represented that he did not feel that Petro had the necessary resources or capability to complete the Rio Shade Project in a reasonable timeframe or cost and advocated that quotations from Tampa Tank or another contractor from the states should be reviewed again, claiming that those other quotations “are starting to look very competitive alongside the PIS costs to date.”
10. On January 23, 2021, Andrew Canning sent an email to me claiming the security gate sign in sheet for the PIS RIO shade installation team for January 13, 2023 were a “further examples of the lies, deceit, and what could be regarded as fraudulent activity that surrounds this particular PIS [meaning, Petro] team.”
 11. With respect to the 3” vent line project, on March 31, 2021, Mr. Canning sent an email to Adrian Melendez of Petro, and to various other individuals including me, in which he requested clarification about a welding procedure because of “a few potential anomalies that I observed during a site visit earlier today.”
 12. On April 13, 2021, Mr. Canning sent an email to me and to IPOS Terminal Manager Merlin Figueira in which he requested that IPOS ask Mr. Melendez to provide IDs and qualification records for welders working on the vent line and for material certification and mechanical testing for the welding consumables being used.
 13. On July 13, 2021, Andrew Canning sent me an email stating that he had “real concerns with the poor quality of work fabrication” Petro had been producing for months. He alleged that some of the welds were “pretty poor, possibly from uncertified welders.” He claimed that Petro had presented Danny Martinez’s welding certificate and

procedures for the turbine work, which he had challenged. He claimed that Danny Martinez had actually separated from Petro almost two years ago.

14. As the project was drawing to a close, Mr. Canning on July 20, 2021 sent an email to me about certain documentation provided by Petro in which he stated that “I am now as certain as I can be that the welders certification (WPQ) presented by Petro Industrial Services are not genuine.” Discussing the documents furnished by Petro, Mr. Canning stated that “The WPQ documents for the welders (attached) have been edited (you can clearly see the font difference and clarity change if you zoom in this looks to be a basic PDF edit of a PDF scan).” Mr. Canning also noted that the documents stated that the welding test was conducted by Guillermo Castro LIII, and Mr. Canning asserted that he had reached out to the manager of Acuren Inspection Services who advised that there was no record of Guillermo Castro within their current or recent employee roll, and that LinkedIn has Castro in Japan for over two years. Mr. Canning went on to note that Acuren did not have any inspectors on the island in 2021 as the company left in 2020 when the NDT contract moved to Versa and that even if they had inspectors they did not have the equipment to perform the referenced bend test or pull test.
15. In addition to the statements about the WPQs, Mr. Canning stated that there were a number of defects in the welds for the replacement 3inch stainless steel vent lines from the WAPA gas turbines, including that GT17 showed x-ray defects in 63% of the weld shots taken (across all welders) and that GT20 showed x-ray defects in 52% of the weld shots taken (across all welders).
16. On August 27, 2021, Andrew Canning sent me an email forwarding an email he had sent on April 13, 2021 to me and IPOS Terminal Manager Merlin Figueira in which he

requested that Mr. Figueira request from Adrian Melendez the qualification records for Petro's welders. In that communication, Mr. Canning asserted that Petro had provided a certification "for Daniel Martinez who I don't think work with PIS any longer," thereby suggesting that Petro's representations back then were not truthful.

17. Prior to Mr. Canning raising these complaints about Petro's work and raising concerns that the welding certificates were forged or illegitimate, no one from IPOS had identified these issues with the quality of Petro's welding work or the certifications of the welders as IPOS accepted that Petro would perform work using properly qualified individuals. In addition, IPOS had not experienced any significant issues with the quality of the maintenance services that Petro had provided during the years that Petro had performed such services pursuant to a contract with IPOS.
18. As a direct result of the concerns and questions and statements made by Mr. Canning, I made the decision to enlist additional technical guidance concerning these issues, and began to seek additional documentation from Petro. I am not an expert, and I would not have made the decision to pursue these requests in July 2021 had it not been for the representations and statements initially made by Mr. Canning. I substantially relied on the representations of Mr. Canning of OPTIS in making my decision to seek additional documentation from Petro. Soon thereafter, I made the decision to terminate the Maintenance Contract between IPOS and Petro because I felt that we needed to protect IPOS's integrity.
19. Once the Maintenance Contract was terminated by IPOS on July 28, 2021, Petro also ceased doing any work on welding or other projects at the facilities and removed its equipment from the site.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 7, 2023



David Smith